

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

RYAN CRAIG STEVENS

Plaintiff,

v.

**MONTREAT COLLEGE;
DR. PAUL J. MAURER;
DR. DANIEL T. BENNETT;
DR. DOROTHEA K. SHUMAN; and
DR. RYAN T. ZWART,**

Defendants.

Case No. 1:23-cv-00284-MR-WCM

**BRIEF IN SUPPORT OF
MOTION FOR ORDER
DEEMING DEFENDANTS
PROPERLY AND TIMELY SERVED**

Plaintiff, Ryan Craig Stevens, pursuant to Rule 4 of the Federal Rules of Civil Procedure, respectfully moves the Court to enter an Order deeming Defendants as properly and timely served.

In support of this motion, Plaintiff shows good cause, as follows:

1. On March 2, 2023, the Individual Defendants received notice of the alias and pluries summons, and acknowledged receipt, while waiving service, as the Individual Defendants “authorized [Womble Bond Dickinson (US) LLP] to accept service on [their] behalf...” (Doc. 24-5, Ex. A at 16). (Docs. 24-1, Ex. A at 2-9; 24-2, Ex. A at 2-9; 24-3 Ex. A at 2-9; 24-4 Ex. A at 2-9)
2. On April 18, 2023, Defendants’ counsel, Jonathon Townsend, states: “we also represent [the] [I]ndividual [D]efendants,” while acknowledging and “accept[ing]” service. (Doc. 24-5 Ex. A at 16)
3. On October 6, 2023, Defendants filed a Notice of Removal, accepting service of process.
4. The case was removable within 30 days after formal service of process of the initial pleading (28 U.S.C. § 1446(b)(1)) in which the 30-day period did not begin until Plaintiff effectuated formal service of process (Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 354 (1999)), as proper service of the filing of a summons, or complaint, initiates the removal clock (Id. at 347–348),

and Defendants must consent to removal (28 U.S.C. § 1446(b)(2)(A)); see also *Home Depot U.S.A., Inc. v. Jackson*, 139 S. Ct. 1743, 1746 (2019)). Defendants indeed consented to removal of the case.

5. Plaintiff executed service of the complaint and summonses, several times, although Defendants accepted service as proper and timely.

6. Defendants consented to removal of the case, forfeiting a claim, or defense, to proper service.

7. Per Rule 4(b) of the Federal Rules of Civil Procedure, the Court failed to properly issue the summonses by excluding the Clerk's signature and/or Court's seal, after "[P]laintiff [] present[ed] [the] summons[es] to the Clerk for signature and seal," on December 29, 2023; however, Plaintiff acknowledges the proposed summonses lacked a sufficient blank section at the bottom of the page.¹
8. On March 4, 2024, the Clerk reissued the summonses, bearing the Court Clerk's signature and Court's seal, due to the Court's error in "sign[ing], seal[ing], and issu[ing]" the summonses.
9. On April 8, 2024, the Court's Operations Supervisor, Missy Frisch, opined the impression of the Court's raised seal on a summons was sufficient as meeting the following requirements of Rule 4 of the Federal Rules of Civil Procedure: a summons must: "(F) be signed by the clerk; and (G) bear the court's seal."

¹ The Court presented the Summons in a Civil Action form, which does not indicate the amount of required spacing.

WHEREFORE, Plaintiff respectfully requests the Court enter an Order deeming Defendants as properly and timely served.

Dated this 21st Day of June, 2024.

A handwritten signature in black ink, reading "Ryan Stevens", is written over a horizontal line.

Ryan Craig Stevens

23 Sleepy Hollow Lane
Swannanoa, NC 28778
(865) 469-1950
Ryan_Stevens316@icloud.com

Plaintiff in pro se

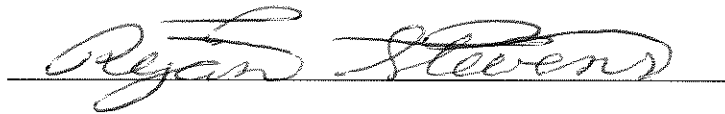
CERTIFICATE OF SERVICE

I, PLAINTIFF, hereby certify the foregoing **MOTION FOR ORDER DEEMING DEFENDANTS PROPERLY AND TIMELY SERVED** was filed, this day, via the CM/ECF system, and served contemporaneously via mail and email to Defendants' counsel:

Beth Tyner Jones, N.C. State Bar No. 15923
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Counsel for Defendants, Montreat College, et al.

Dated this 21st Day of June, 2024.

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